

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:)	CASE NO. 18-42529-PWB
KENNETH LEE THOMAS,)	
Debtor.)	CHAPTER 13
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H-E PARTNERS, LTD, assignee of)	
SOUTHCREST BANK, successor to)	
FIRST NATIONAL BANK OF)	
POLK COUNTY,)	
Movant,)	CONTESTED MATTER
vs.)	
)	
KENNETH LEE THOMAS, and)	
MARY IDA THOMAS, TRUSTEE,)	
represented by BRANDI L. KIRKLAND,)	
)	
Respondents.)	

OBJECTION TO CONFIRMATION OF PLAN AND VALUATION

COMES NOW, H-E Partners, Ltd assignee of Southcrest Bank, successor to First National Bank of Polk County (hereinafter "Movant), and files this Objection to Confirmation of Plan and Valuation to be heard on **February 20, 2019 at 9:30 A.M. in Room 342, United States Courthouse, 600 East First Street, Rome, Georgia, 30161** on the following grounds:

1.

Debtor filed his Petition constituting an Order for Relief under 11 U.S.C. Chapter 13 on October 26, 2018 ("Petition Date"). Debtor filed his Chapter 13 Plan on October 4, 2016 [Doc. No. 7] (the "Plan").

2.

Debtor is indebted to the Movant by virtue of two notes secured by first and second position Deeds to Secure Debt and Commercial Security Agreements with assignment of deed to H-E

property commonly known as 1140 Old Collard Valley Road, Aragon, GA 30104 with 9.25 acres surrounding the residence. (hereinafter the "Property").

3.

Debtors' Chapter 13 Plan indicated his intent to pay the arrearage on the first priority loan at the rate of \$245.00 monthly starting in January 2019, to include November 1, 2018 payment. The loan is due for the August 1, 2018 payment, and is in pre-petition default in the amount of \$12,045.00 (Loan# 9997-1157). Debtor's plan proposes to pay the arrearage with no interest, debtor's monthly payments on this debt are in the amount of \$1,260.00 per month, which Debtor has failed to pay since this bankruptcy case was filed. Debtor is in arrears post-petition for three months. Debtor's second mortgage (Loan#: 9997-1156) is an adjustable rate loan, which matured under its own terms on June 5, 2018. Debtor is in default, therefore on this loan and the entire amount of the outstanding balance of \$49,877.17 is due and owing. This post-maturity balance continues to accrue at the rate of 10% per month. Debtor attempts to use his plan as a vehicle to write himself a new mortgage, not rehabilitate an existing one. Debtor proposes to pay Movant the sum of \$898.00 per month at 4.5% interest, which does not reflect the applicable post-maturity rate. Debtor has not made any payments on this second note since the debtor's case was filed. Movant is furthermore entitled to attorney fees with regard to each loan.

WHEREFORE, Movant prays that its Objection be sustained, the Chapter 13 Plan denied confirmation, and for such other and further relief as is deemed just and proper.

On this 16th day of January, 2019. Respectfully submitted,
MACEY, WILENSKY, & HENNINGS, LLP

/s/ Todd E. Hennings
Todd E. Hennings, Bar No. 347302

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CERTIFICATE OF SERVICE

This is to certify that I have served the foregoing *Objection to Confirmation of Plan and Valuation* via first class mail, postage prepaid, and/or by the court using the CM/ECF system, which will send an electronic e-mail notification to the parties as indicated below:

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Brandi L. Kirkland
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This 16th day of January, 2019.

MACEY, WILENSKY & HENNINGS, LLP

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